IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7277 OF 2004

Banu Begum d/o Appasaheb Mujawar, .. Petitioner

Vs

1. Mohammed Hanif Saheblal Mujawar, .. Respondent

Mr H.S.Venegaonkar, for the petitioner.

CORAM : D.B.BHOSALE,J.

DATE : 7th September, 2004

PC:

1. Heard the learned counsel for the petitioner.

2. This petition is directed against the concurrent findings recorded by the Courts below in Exhibit-5 application filed by the respondent-plaintiff seeking injunction against the petitioner restraining her from obstructing his peaceful possession. The injunction was granted by the trial Court by order dated 19/12/2002 which was confirmed by the appellate court on 22.4.2004 in Misc. Civil Appeal No.4 of 2003 .

3. I have perused the impugned judgments and the other material placed before me. In so far as possession is concerned, it is clear from the material placed on record that the respondent-plaintiff was put in possession in 1986 when the agreement of sale was

executed in his favour by original landlady Ajmotbi. The petitioner claims right over the property on the basis of the sale deed dated 12.5.1988. The agreement of sale executed in 1986 in favour of the respondent has been disputed contending that the signature on the said agreement is not that of Ajmotbi. However, the overtacts of the respondent clearly establish that he was put in possession and he continued to be in possession till this date. Mr Venegaonkar, the learned counsel for the petitioner, therefore, submitted that even if it is assumed that the respondent is in possession, his possession is not legal in view of the registered sale deed executed in favour of the petitioner on 12.5.1988 by Ajmotbi. He further submitted that the petitioner is bonafide purchaser for value without notice. Keeping in view the overall facts and circumstances of the case and the material on record, at this stage, I do not wish to enter into a controversy as to whether or not the possession of the respondent-plaintiff is legal. It is open for the petitioner to raise such contention at appropriate stage. No case is made out warranting interference in the impugned order. The petition, therefore, fails and is dismissed as such.

. Hearing of the suit is expedited.

(D.B.BHOSALE, J.)